

C4. CHAPTER 4

FOREIGN MILITARY SALES PROGRAM GENERAL INFORMATION

C4.1. DEFINITION AND PURPOSE

C4.1.1. The Foreign Military Sales (FMS) Program is that part of Security Assistance authorized by the Arms Export Control Act (AECA) and conducted using formal contracts or agreements between the United States Government (USG) and an authorized foreign purchaser. These contracts, called Letters of Offer and Acceptance (LOAs), are signed by both the USG and the purchasing Government or international organization; and provide for the sale of defense articles and/or defense services (to include training) usually from Department of Defense (DoD) stocks or through purchase under DoD-managed contracts. As with all Security Assistance, the FMS program supports United States (U.S.) foreign policy and national security objectives.

C4.2. WHO MAY PURCHASE USING THE FMS PROGRAM

C4.2.1. Presidential Determination. Defense articles and/or services may be sold or leased to a country or international organization only if the President, in accordance with AECA, section 3 (reference (c)), makes a determination that the prospective purchaser is eligible. Table C4.T1. summarizes the AECA criteria for this determination.

Table C4.T1. Presidential Determination Criteria for FMS Eligibility

FMS Eligibility Criteria	
1	The furnishing of defense articles and defense services to such country or international organization strengthens the security of the United States and promote world peace;
2	The country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it or produced in a cooperative project, to anyone not an officer, employee, or agent of that country or international organization, and not to use or permit the use of such an article or related training or other defense service for purposes other than those for which furnished unless the consent of the President has first been obtained;
3	The country or international organization shall have agreed that it shall maintain the security of such article or service and provide substantially the same degree of security protection afforded to such article by the United States; and
4	The country or international organization is otherwise eligible to purchase or lease defense articles or defense services.

C4.2.2. Other Factors Determining Eligibility

C4.2.2.1. Defense articles and/or services are not sold to foreign purchasers under the AECA unless they are part of the national defense establishment, under the direction and control of the ministry responsible for defense matters. Requests for training for foreign personnel (or units) that are not part of the Defense Ministry must be directed to the Department of State (DoS) and to the Agency for International Development (AID) through U.S. Embassy channels. The Defense Security Cooperation Agency (DSCA) and relevant Implementing Agencies should be informed of the request.

C4.2.2.2. Prior DSCA and DoS approval must be obtained for the sale or lease of defense articles, defense services, or training to foreign organizations or personnel if they are engaged in on-going civilian police functions under the direction and control of the ministry responsible for defense matters.

C4.2.2.3. Assistance may be provided to Communist countries only if the President exercises the waiver authority under the Foreign Assistance Act (FAA), section 614(a) (reference (b)), and reports to Congress that such assistance is vital to the security of the United States and promotes the independence of the recipient country from international communism. (FAA, section 620(f) reference (b))

C4.2.3. Purchasers Currently Eligible. Questions regarding eligibility should be referred to DSCA. Table C4.T2. lists the country and international organization codes. (Organizations are listed at the end of the table.)

C4.2.3.1. The table identifies the short names and two position country and organization codes assigned for FMS purposes (e.g., for assignment of LOA identifiers or Security Assistance communications). For territories, the host country code is listed in parenthesis to the right of the territory name. The responsible Combatant Commands and Region Groupings are also given.

C4.2.3.2. The country codes are generally consistent with National Institute of Standards and Technology (NIST) codes in NIST Publication 10-4, Federal Information Processing Standards (reference (aj)), maintained by National Geospatial-Intelligence Agency (NGA). If FMS and NIST codes differ, NIST codes are listed in parenthesis to the right of the FMS code.

C4.2.3.3. The FMS AECA Eligible (Yes/No) column indicates those countries and organizations determined by the President under AECA, section 3(a)(1) (reference (c)) to be eligible to purchase defense articles and defense services under authority of the AECA. The Presidential Determination date can be found in the Congressional Budget Justification for Foreign Operations. An eligibility determination by itself does not signify that sales will be made since sales may be suspended (indicated by note \1) for legal or policy reasons and certain items may not be releasable to the requesting country.

C4.2.3.4. The “Term of Sale – Dependable Undertaking Authorized” column indicates if this specific term of sale may be used on a purchaser’s FMS cases. If a purchaser is not authorized for Dependable Undertaking, no contracts shall be signed by the Department of Defense until the entire LOA value has been received from the purchaser. Normally, the Term of Sale “Cash With Acceptance” is used on any cash-financed FMS cases for countries that are not authorized Dependable Undertaking. See Chapter 9 for additional information.

C4.2.3.5. The “Accelerated Case Closure Eligible” column indicates if the country participates in the Accelerated Case Closure (ACC) program. (See Chapter 6, section C6.8.)

C4.2.3.6. The “EDA Grant Eligible” column indicates if the country has been declared eligible to receive grant Excess Defense Articles (EDA) in FY05. See Chapter 11, section C11.5.

Table C4.T2. Country, International Organization, and Regional Codes and FMS Eligibility

Country/ Territory (Host Country)	FMS Country Code/ (NIST Code)	Combatant Command \\1	Region Grouping \\2	FMS AECA Eligible \\3	Term of Sale – Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Afghanistan	AF	CE	NESA	Yes	No	Yes	Yes
Albania	AL	EU	EUR	Yes	Yes	Yes	Yes
Algeria	AG	EU	NESA	Yes	Yes	Yes	No
Andorra	AN	EU	EUR	No	No	N/A	No
Angola	AO	EU	AFR	Yes	No	Yes	Yes
Anguilla (UK)	AV	SO	AR	No	No	N/A	N/A
Antigua and Barbuda	AC	SO	AR	Yes	No	Yes	Yes
Argentina	AR	SO	AR	Yes	Yes	Yes	Yes
Armenia	AM	EU	EUR	Yes	No	Yes	Yes
Aruba	AA	SO	AR	No	No	N/A	N/A
Australia	AT (AS)	PA	EAP	Yes	Yes	Yes	No
Austria	AU	EU	EUR	Yes	Yes	Yes	No
Azerbaijan	AJ	EU	EUR	Yes	No	Yes	Yes
Bahamas	BF	NO \\6	AR	Yes	Yes	Yes	Yes
Bahrain	BA	CE	NESA	Yes	Yes	Yes	Yes
Bahrain National Guard	BZ	CE	NESA	Yes	Yes	Yes	No
Bangladesh	BG	PA	NESA	Yes	Yes	Yes	Yes
Barbados	BB	SO	AR	Yes	Yes	Yes	Yes
Belarus	BO	EU	EUR	No	No	N/A	No
Belgium	BE	EU	EUR	Yes	Yes	Yes	No
Belize	BH	SO	AR	Yes	No	Yes	Yes
Benin	DA (BN)	EU	AFR	Yes	No	Yes	Yes
Bermuda (UK)	BD	NO	AR	No	No	N/A	No
Bhutan	BT	PA	NESA	No	No	Yes	No
Bolivia	BL	SO	AR	Yes	No	Yes	Yes
Bolivia INC	D1	SO	AR	Yes	No	Yes	No
Bosnia-Herzegovina	BK	EU	EUR	Yes	No	Yes	Yes
Botswana	BC	EU	AFR	Yes	Yes	Yes	Yes
Brazil	BR	SO	AR	Yes	Yes	No	Yes
British Indian Ocean Territory (UK)	IO	PA	NESA	No	No	N/A	N/A
British Virgin Islands (UK)	VI	NO \\6	AR	No	No	N/A	N/A
Brunei	BX	PA	EAP	Yes	Yes	Yes	No
Bulgaria	BU	EU	EUR	Yes	No	Yes	Yes
Burkina Faso	UV	EU	AFR	Yes	No	Yes	No
Burma	BM	PA	EAP	Yes	No	Yes	No
Burundi	BY	EU	AFR	Yes	No	Yes	Yes
Cambodia	CB	PA	EAP	Yes	No	Yes	Yes
Cameroon	CM	EU	AFR	Yes	Yes	Yes	Yes
Canada	CN (CA)	NO	EUR	Yes	Yes	Yes	No

Country/ Territory (Host Country)	FMS Country Code/ (NIST Code)	Combatant Command \1	Region Grouping \2	FMS AECA Eligible \3	Term of Sale – Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Cape Verde, Republic of	CV	EU	AFR	Yes	No	Yes	Yes
Cayman Islands (UK)	CJ	SO	AR	No	No	N/A	N/A
Central African Republic	CT	EU	AFR	Yes	No	Yes	No
Chad	CD	EU	AFR	Yes	No	Yes	Yes
Chile	CI	SO	AR	Yes	Yes	Yes	Yes
China	CH	PA	EAP	Yes	Yes	Yes	No
Colombia	CO	SO	AR	Yes	Yes	Yes	Yes
Colombia INC	D5	SO	AR	Yes	Yes	Yes	Yes
Comoros	CR (CN)	PA	AFR	Yes	No	Yes	No
Congo, Republic of (Brazzaville)	CF	EU	AFR	Yes	No	Yes	Yes
Congo, Democratic Republic of (Kinshasa)	CX (CG)	EU	AFR	Yes	No	Yes	Yes
Cook Islands (NZ)	CW	PA	EAP	Yes	No	Yes	No
Costa Rica	CS	SO	AR	Yes	Yes	Yes	Yes
Croatia	HR	EU	EUR	Yes	No	Yes	Yes
Cuba	CU	NO	AR	No	No	N/A	N/A
Cyprus	CY	EU	EUR	No	No	N/A	N/A
Czechoslovakia \5	CZ	EU	EUR	No	No	N/A	N/A
Czech Republic	EZ	EU	EUR	Yes	Yes	Yes	Yes
Denmark	DE (DA)	EU	EUR	Yes	Yes	Yes	No
Djibouti	DJ	CE	AFR	Yes	No	Yes	Yes
Dominica	DO	SO	AR	Yes	Yes	Yes	Yes
Dominican Republic	DR	SO	AR	Yes	No	Yes	Yes
East Timor	TT	PA	EAP	Yes	No	Yes	Yes
Ecuador	EC	SO	AR	Yes	Yes	Yes	Yes
Ecuador INC	D6	SO	AR	Yes	Yes	Yes	Yes
Egypt	EG	CE	NESA	Yes	Yes	Yes	Yes
El Salvador	ES	SO	AR	Yes	Yes	Yes	Yes
Equatorial Guinea	EK	EU	AFR	Yes	No	Yes	No
Eritrea	ER	CE	AFR	Yes	No	Yes	Yes
Estonia	EN	EU	EUR	Yes	No	Yes	Yes
Ethiopia	ET	CE	AFR	Yes	No	Yes	Yes
Faeroe Islands (DE)	FO	EU	EUR	No	No	N/A	N/A
Falkland Islands (UK)	FA	SO	AR	No	No	N/A	N/A
Fiji	FJ	PA	EAP	Yes	No	Yes	Yes
Finland	FI	EU	EUR	Yes	Yes	Yes	No
France	FR	EU	EUR	Yes	Yes	No	No
French Guiana (FR)	FG	SO	AR	No	No	N/A	N/A
French Polynesia (FR)	FP	PA	EAP	No	No	N/A	N/A
Gabon	GB	EU	AFR	Yes	No	Yes	Yes
Gambia	GA	EU	AFR	Yes	No	Yes	Yes

Country/ Territory (Host Country)	FMS Country Code/ (NIST Code)	Combatant Command \\1	Region Grouping \\2	FMS AECA Eligible \\3	Term of Sale – Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Georgia	GG	EU	EUR	Yes	No	Yes	Yes
Germany	GY(GM)	EU	EUR	Yes	Yes	Yes	No
Ghana	GH	EU	AFR	Yes	No	Yes	Yes
Gibraltar (UK)	GI	EU	EUR	No	No	N/A	N/A
Greece	GR	EU	EUR	Yes	Yes	Yes	Yes
Greenland (DE)	GL	EU	AR	No	No	N/A	N/A
Grenada	GJ	SO	AR	Yes	No	Yes	Yes
Guadeloupe (FR)	GP	SO	AR	No	No	N/A	N/A
Guatemala	GT	SO	AR	Yes	Yes	Yes	Yes
Guinea	GV	EU	AFR	Yes	No	Yes	Yes
Guinea-Bissau	PU	EU	AFR	Yes	No	Yes	No
Guyana	GU	SO	AR	Yes	No	Yes	Yes
Haiti	HA	SO	AR	Yes	Yes	Yes	Yes
Honduras	HO	SO	AR	Yes	Yes	Yes	Yes
Hong Kong (CH)	HK	PA	EAP	No	No	N/A	N/A
Hungary	HU	EU	EUR	Yes	Yes	Yes	Yes
Iceland	IL (IC)	EU	EUR	Yes	Yes	Yes	No
India	IN	PA	NESA	Yes	Yes	Yes	Yes
Indochina	IC	PA	EAP	No	No	N/A	N/A
Indonesia	ID	PA	EAP	Yes	Yes	Yes	No
Iran	IR	CE	NESA	No	No	No	No
Iraq	IQ	CE	NESA	Yes	No	N/A	Yes
Ireland	EI	EU	EUR	Yes	Yes	Yes	No
Israel	IS	EU	NESA	Yes	Yes	Yes	Yes
Italy	IT	EU	EUR	Yes	Yes	Yes	No
Ivory Coast (Cote d'Ivoire)	IV	EU	AFR	Yes	No	Yes	Yes
Jamaica	JM	SO	AR	Yes	Yes	Yes	Yes
Japan	JA	PA	EAP	Yes	Yes	Yes	No
Jordan	JO	CE	NESA	Yes	Yes	Yes	Yes
Kazakhstan	KZ	CE	EUR	Yes	No	Yes	Yes
Kenya	KE	CE	AFR	Yes	Yes	Yes	Yes
Kiribati	KR	PA	EAP	Yes	No	Yes	No
Korea (North)	KN	PA	EAP	No	No	N/A	N/A
Korea (Seoul)	KS	PA	EAP	Yes	Yes	Yes	No
Kuwait	KU	CE	NESA	Yes	Yes	Yes	No
Kyrgyzstan	KG	CE	EUR	Yes	No	Yes	Yes
Laos	LA	PA	EAP	Yes	No	Yes	Yes
Latvia	LG	EU	EUR	Yes	No	Yes	Yes
Lebanon	LE	CE	NESA	Yes	Yes	Yes	Yes
Lesotho	LT	EU	AFR	Yes	No	Yes	No
Liberia	LI	EU	AFR	Yes	No	Yes	Yes

Country/ Territory (Host Country)	FMS Country Code/ (NIST Code)	Combatant Command \\1	Region Grouping \\2	FMS AECA Eligible \\3	Term of Sale – Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Libya	LY	EU	NESA	Yes	No	No	No
Liechtenstein	LS	EU	EUR	No	No	N/A	No
Lithuania	LH	EU	EUR	Yes	No	Yes	Yes
Luxembourg	LX (LU)	EU	EUR	Yes	Yes	Yes	No
Macau (CH)	MC	PA	EAP	No	No	N/A	N/A
Macedonia	MK	EU	EUR	Yes	Yes	Yes	Yes
Madagascar	MA	PA	AFR	Yes	No	Yes	Yes
Malawi	MI	EU	AFR	Yes	No	Yes	Yes
Malaysia	MF(MY)	PA	EAP	Yes	Yes	Yes	Yes
Maldives	MV	PA	NESA	No	No	N/A	No
Mali	RM(ML)	EU	AFR	Yes	No	Yes	Yes
Malta	MT	EU	EUR	Yes	Yes	Yes	Yes
Marshall Islands	R1 (RM)	PA	EAP	Yes	No	Yes	Yes
Martinique (FR)	MB	SO	AR	No	No	N/A	N/A
Mauritania	MR	EU	AFR	Yes	No	Yes	Yes
Mauritius	MP	PA	AFR	Yes	No	Yes	Yes
Mexico	MX	NO	AR	Yes	Yes	Yes	Yes
Micronesia	FM	PA	EAP	Yes	No	Yes	Yes
Moldova	MD	EU	EUR	Yes	No	Yes	Yes
Monaco	MN	EU	EUR	No	No	N/A	No
Mongolia	MG	PA	EAP	Yes	No	Yes	Yes
Morocco	MO	EU	NESA	Yes	Yes	Yes	Yes
Mozambique	MZ	EU	AFR	Yes	No	Yes	Yes
Myanmar (see Burma)							
Namibia	WA	EU	AFR	Yes	No	Yes	Yes
Nauru	NR	PA	EAP	No	No	N/A	N/A
Nepal	NP	PA	NESA	Yes	Yes	Yes	Yes
Netherlands	NE (NL)	EU	EUR	Yes	Yes	Yes	No
Netherlands Antilles (NE)	NA (NT)	SO	AR	No	No	N/A	N/A
New Caledonia (FR)	NC	PA	EAP	No	No	N/A	N/A
New Zealand	NZ	PA	EAP	Yes	Yes	Yes	No
Nicaragua	NU	SO	AR	Yes	No	Yes	Yes
Niger	NK (NG)	EU	AFR	Yes	No	Yes	Yes
Nigeria	NI	EU	AFR	Yes	Yes	Yes	Yes
Niue (NZ)	NQ	PA	EAP	No	No	N/A	N/A
Norfolk Island (AT)	NF	PA	EAP	No	No	N/A	N/A
Norway	NO	EU	EUR	Yes	Yes	Yes	No
Oman	MU	CE	NESA	Yes	Yes	Yes	Yes
Pakistan	PK	CE	NESA	Yes	Yes	Yes	Yes
Palau	PS	PA	EAP	Yes	No	Yes	Yes
Panama	PN (PM)	SO	AR	Yes	Yes	Yes	Yes

Country/ Territory (Host Country)	FMS Country Code/ (NIST Code)	Combatant Command \\1	Region Grouping \\2	FMS AECA Eligible \\3	Term of Sale – Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Papua-New Guinea	PP	PA	EAP	Yes	No	Yes	Yes
Paraguay	PA	SO	AR	Yes	No	Yes	Yes
Peru	PE	SO	AR	Yes	Yes	Yes	Yes
Peru INC	D3	SO	AR	Yes	Yes	Yes	Yes
Philippines	PI (RP)	PA	EAP	Yes	Yes	Yes	Yes
Pitcairn (UK)	PC	PA	EAP	No	No	N/A	N/A
Poland	PL	EU	EUR	Yes	Yes	Yes	Yes
Portugal	PT (PO)	EU	EUR	Yes	Yes	Yes	Yes
Qatar	QA	CE	NESA	Yes	Yes	Yes	No
Republic of Montenegro	MJ	EU	EUR	No	No	N/A	N/A
Republic of Serbia	RB	EU	EUR	Yes	No	N/A	N/A
Reunion (FR)	RE	PA	AFR	No	No	N/A	N/A
Romania	RO	EU	EUR	Yes	No	Yes	Yes
Russia	RS	EU	EUR	Yes	No	Yes	Yes
Rwanda	RW	EU	AFR	Yes	No	Yes	Yes
Saint Helena (UK)	SH	EU	AFR	No	No	N/A	N/A
Saint Kitts and Nevis	SC	SO	AR	Yes	No	Yes	Yes
Saint Lucia	ST	SO	AR	Yes	Yes	Yes	Yes
Saint Pierre and Miquelon (FR)	SB	SO	AR	No	No	N/A	N/A
Saint Vincent and Grenadines	VC	SO	AR	Yes	Yes	Yes	Yes
Samoa	WS	PA	EAP	Yes	No	Yes	Yes
San Marino	SM	EU	EUR	No	No	No	No
Sao Tome and Principe	TP	EU	AFR	Yes	No	Yes	Yes
Saudi Arabia	SR (SA)	CE	NESA	Yes	Yes	Yes	No
Saudi Arabia National Guard	SI	CE	NESA	Yes	Yes	Yes	No
Senegal	SK (SG)	EU	AFR	Yes	No	Yes	Yes
Serbia (Refer to Republic of Serbia)	S2 (SR)	EU	EUR	No	No	No	N/A
Serbia and Montenegro	YI	EU	EUR	No	No	No	No
Seychelles	SE	CE	AFR	Yes	No	Yes	Yes
Sierra Leone	SL	EU	AFR	Yes	No	Yes	Yes
Singapore	SN	PA	EAP	Yes	Yes	Yes	No
Slovak Republic	LO	EU	EUR	Yes	No	Yes	Yes
Slovenia	S3 (SI)	EU	EUR	Yes	Yes	Yes	Yes
Solomon Islands	BP	PA	EAP	Yes	No	Yes	Yes
Somalia	SO	CE	AFR	Yes	No	Yes	No
South Africa	UA (SF)	EU	AFR	Yes	No	Yes	Yes
Spain	SP	EU	EUR	Yes	Yes	Yes	No
Sri Lanka	CE	PA	NESA	Yes	No	Yes	Yes
Sudan	SU	CE	AFR	Yes	No	Yes	No

Country/ Territory (Host Country)	FMS Country Code/ (NIST Code)	Combatant Command \\1	Region Grouping \\2	FMS AECA Eligible \\3	Term of Sale – Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Suriname	NS	SO	AR	Yes	Yes	Yes	Yes
Swaziland	WZ	EU	AFR	Yes	No	No	No
Sweden	SW	EU	EUR	Yes	Yes	No	No
Switzerland	SZ	EU	EUR	Yes	Yes	Yes	No
Syria	SY	CE	NESA	No	No	No	No
Taiwan	TW	PA	EAP	Yes	Yes	Yes	No
Tajikistan	TI	CE	EUR	Yes	No	Yes	Yes
Tanzania	TZ	EU	AFR	Yes	No	Yes	Yes
Thailand	TH	PA	EAP	Yes	Yes	Yes	Yes
Togo	TO	EU	AFR	Yes	No	Yes	Yes
Tokelau (NZ)	TL	PA	EAP	No	No	No	No
Tonga	TN	PA	EAP	Yes	No	Yes	Yes
Trinidad-Tobago	TD	SO	AR	Yes	Yes	Yes	Yes
Tunisia	TU (TS)	EU	NESA	Yes	Yes	Yes	Yes
Turkey	TK (TU)	EU	EUR	Yes	Yes	Yes	Yes
Turkmenistan	TX	CE	EUR	Yes	No	Yes	Yes
Turks and Caicos (UK)	TS	NO	AR	No	No	No	No
Tuvalu	TV	PA	EAP	Yes	No	Yes	No
Uganda	UG	EU	AFR	Yes	No	Yes	Yes
Ukraine	UP	EU	EUR	Yes	No	Yes	Yes
United Arab Emirates (previous code TC)	AE	CE	NESA	Yes	Yes	Yes	No
United Kingdom	UK	EU	EUR	Yes	Yes	Yes	No
United Kingdom Polaris Project	UZ	EU	EUR	Yes	Yes	No	No
United Nations Interim Mission in Kosovo	T2	EU	EU	No	No	N/A	N/A
Uruguay	UY	SO	AR	Yes	Yes	Yes	Yes
Uzbekistan	U2	CE	EUR	Yes	No	Yes	Yes
Vanuatu	NH	PA	EAP	Yes	No	Yes	Yes
Venezuela	VE	SO	AR	Yes	Yes	Yes	Yes
Vietnam	VS (VM)	PA	EAP	Yes	No	Yes	No
Western Sahara	WI	EU	AFR	No	No	N/A	No
Yemen	YE (YM)	CE	NESA	Yes	No	Yes	Yes
Yemen, Aden	YS (YM)	CE	NESA	No	No	N/A	No
Zaire (see Congo, Kinshasa)							
Zambia	ZA	EU	AFR	Yes	No	Yes	Yes
Zimbabwe	ZI	EU	AFR	Yes	No	Yes	No

Table C4.T2. Country, International Organization, and Regional Codes and FMS Eligibility
(continued)

Organization	FMS Code	Combatant Command 1	Regional Grouping 2	FMS AECA Eligible 3	Term of Sale - Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Central Treaty Organization (CENTO) (ceased 1979)	T3	NR	NR	No	No	N/A	N/A
DSCA\DFAS reserved							
Fiscal Year 2007 DoD Appropriations Act (Public Law 109-289) (Sep 29, 2006) Afghanistan Security Forces Fund	B6	CE	NR	No	No	N/A	N/A
Fiscal Year 2007 DoD Appropriations Act (Public Law 109-289) (Sep 29, 2006) Iraq Security Forces Fund	B7	CE	NR	No	No	N/A	N/A
Internal DSAMS Training	AA	NR	NR	No	No	N/A	N/A
Emergency Supplemental Appropriations (Public Law 109-234) (Jun 15, 2006) Afghanistan Security Forces Fund	B2	CE	NR	No	No	N/A	N/A
Emergency Supplemental Appropriations (Public Law 109-234) (Jun 15, 2006) Iraq Security Forces Fund	B3	CE	NR	No	No	N/A	N/A
Internal DSAMS Training	NN	NR	NR	No	No	N/A	N/A
Section 1107 of FY04 Supplemental (Train and Equip Authority) for the Afghanistan National Army	Y2	CE	NR	No	No	N/A	N/A
Section 1107 of FY04 Supplemental (Train and Equip Authority) for the New Iraqi Army	Y3	CE	NR	No	No	N/A	N/A
Uzbekistan - Emergency Wartime Supplemental Appropriations Act 2003 (Public Law 108-11)	Y4	CE	NR	No	No	N/A	N/A
Section 9006 of FY05 Defense Appropriations Act (Public Law 108-287) for Afghanistan	Y5	CE	NR	No	No	N/A	N/A
Section 9006 of FY05 Defense Appropriations Act (Public Law 108-287) for Iraq	Y6	CE	NR	No	No	N/A	N/A
Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106) for Iraq	Y7	CE	NR	No	No	N/A	N/A

Organization	FMS Code	Combatant Command \\1	Regional Grouping \\2	FMS AECA Eligible \\3	Term of Sale - Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Afghanistan Security Forces Fund - FY05 Emergency Supplemental Appropriations Act (Public Law 109-13)	Y8	CE	NR	No	No	N/A	N/A
Iraq Security Forces Fund - FY05 Emergency Supplemental Appropriations Act (Public Law 109-13)	Y9	CE	NR	No	No	N/A	N/A
USG Transition Support (Iraq)	IZ	CE	NR	No	No	N/A	No
Airborne Warning and Control System	W1	NR	NR \\6	No	No	N/A	N/A
Case Closure Suspense Account (post 1995)	55	NR	NR	No	No	N/A	N/A
Dept. of Defense	00	NR	NR	No	No	N/A	N/A
European Participating Group F-16 follow on	PG	NR	NR	No	No	N/A	N/A
Extraordinary Expenses – IMET and Counterterrorism	22	NR	NR	No	No	N/A	N/A
General Costs - IMET and Counterterrorism	66	NR	NR	No	No	N/A	N/A
Counterterrorism Program/Contractor Support	33	NR	NR	No	No	N/A	N/A
Counterterrorism DSAMS	44	NR	NR	No	No	N/A	N/A
F-16, Belgium	F1	NR	NR	No	No	Yes	N/A
F-16, Denmark	F2	NR	NR	No	No	Yes	N/A
F-16, Netherlands	F3	NR	NR	No	No	Yes	N/A
F-16, Norway	F4	NR	NR	No	No	Yes	N/A
FAA Sec 607 Sales, Reimbursable (Delayed Payment)	S5	NR	NR	No	No	N/A	N/A
FAA Sec 607 Sales, Payment in Advance	S6	NR	NR	No	No	N/A	N/A
FAA Sec 632 Transactions	S4	NR	NR	No	No	N/A	N/A
National Defense Authorization Act (NDAA), Section 1033 Transactions	S7	NR	NR	No	No	N/A	N/A
National Defense Authorization Act for Fiscal Year 2006 (PL 109-163), Section 1206	B4	NR	NR	No	No	N/A	N/A
NDAA, Section 1004 Transactions	S8	NR	NR	No	No	N/A	N/A
Presidential Drawdowns (DSCA authorized use only)	S9	NR	NR	No	No	N/A	N/A
FMF Administration (DFAS use through FY95)	55	NR	NR	No	No	N/A	N/A
FMS Agreements (FACTS Data, DSCA)	C2	NR	NR	No	No	N/A	N/A
MAP Owned Materiel (DSCA Records)	M3	NR	NR	No	No	N/A	N/A

Organization	FMS Code	Combatant Command 1	Regional Grouping 2	FMS AECA Eligible 3	Term of Sale - Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
MAP Property Sales and Disposal (MAPSAD)	M2	NR	NR	No	No	N/A	N/A
Panama Canal Area Military Schools (PACAMS)	11	SO	AR	No	No	N/A	N/A
Seasparrow (Sec 1004, P.L. 98-525)	N3	NR	NR 6	No	No	N/A	N/A
Security Assistance Automated Resource Management Suite (SAARMS) database	E1	NR	NR	No	No	N/A	N/A
Special Defense Acquisition Fund (SDAF)	D2	NR	NR	No	No	N/A	N/A
Intl Civil Def Organization (ICDO)	T8	NR	NR	No	No	N/A	N/A
NATO							
NATO	N2	EU	EUR	Yes	Yes	No	No
Headquarters	N6	EU	EUR	Yes	Yes	No	No
Airborne Early Warning & Control Operations & Support (O&S) Budget	K7	EU	EUR	Yes	Yes	No	No
Prog Mgt Ofc (NAPMO)	N1	EU	EUR	Yes	Yes	No	No
C3 Agency (NC3A)	K4	EU	EUR	Yes	Yes	Yes	No
NEFMA 7	M1	EU	EUR	Yes	Yes	No	No
HAWK Prod & Log Org (NHPLO)	M6	EU	EUR	Yes	Yes	Yes	No
Missile Firing Installation (NAMFI)	N9	EU	EUR	Yes	Yes	No	No
EF2000 and Tornado Dev, Prod, & Log Mgt Agency (NETMA)	K3	EU	EUR	Yes	Yes	No	No
Mutual Weapons Dev Prog (MWDP)	N8	EU	EUR	Yes	Yes	No	No
NAMSA-F104 + C-130	K2	EU	EUR	Yes	Yes	No	No
NAMSA General + Nike	N4	EU	EUR	Yes	Yes	No	No
NAMSA-HAWK	N7	EU	EUR	Yes	Yes	No	No
NAMSA-Weapons	M5	EU	EUR	Yes	Yes	No	No
Southern Region Signal/Communications	M7	EU	EUR	Yes	Yes	No	No
Supreme Allied Commander, Atlantic (SACLANT)	K5	EU	EUR	Yes	Yes	No	No
Supreme HQ, Allied Powers, Europe (SHAPE)	A2	EU	EUR	Yes	Yes	No	No
NATO Air Command and Control Management (NACMA)	A6	EU	EUR	Yes	Yes	No	No
Regions							
Africa	R6	EU	AFR	No	No	Yes	N/A
American Republic	R5	SO	AR	No	No	Yes	N/A
East Asia/Pacific	R4	PA	EAP	No	No	Yes	N/A
European	R2	EU	EUR	No	No	Yes	N/A

Organization	FMS Code	Combatant Command \1	Regional Grouping \2	FMS AECA Eligible \3	Term of Sale - Dependable Undertaking Authorized	Accel. Case Closure Eligible	EDA Grant Eligible (FY05)
Near East/South Asia	R3	EU	NESA	No	No	Yes	N/A
Regional Security System	SS	SO	AR	Yes	No	No	No
SE Asia Treaty Organization (ceased 24 Sep 75)	T4	NR	NR	No	No	Yes	See Country Information
United Nations	T9	NR	NR	Yes	No	Yes	See Country Information
International Civil Aviation Organization (ICAO)	T7	NR	NR	Yes	No	Yes	See Country Information
United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA)	A4	NR	NR	Yes	No	Yes	See Country Information
United Nations Transitional Authority in East Timor (UNTAET)	E2	PA	EAP	Yes	No	Yes	See Country Information
African Union (AU)	A3	NR	AFR	Yes	No	Yes	See Country Information
Organization of American States (OAS)	A1	NR	NR	Yes	No	Yes	See Country Information
Organization of Security and Cooperation in Europe (OSCE)	A8	EU	EUR	Yes	No	Yes	See Country Information
Economic Community of West African States (ECOWAS)	A7	EU	AFR	Yes	No	Yes	Yes
Dept of Humanitarian Affairs (UNDHA)	A5	NR	NR	Yes	No	Yes	See Country Information

Notes \

1 Combatant Command

NR Non-Regional

CE Central CMD

EU European CMD

PA Pacific CMD

SO Southern CMD

NO Northern CMD

2 Regional Grouping

NR Non-Regional

AFR Africa Region

AR American Republic

EUR European

EAP East Asia/Pacific

NESA Near East/South Asia

3 Purchaser's eligibility may change. See paragraph C4.2.4.

4 Affiliated with but not eligible for FMS as part of NATO.

5 Included for historical purposes.

6 U.S. Southern Command retains responsibility for security cooperation.

7 Responsibility for Security Cooperation transitioned from U.S. Southern Command to the U.S. Northern Command on October 1, 2003.

C4.2.4. Changes in Eligibility Status. Sales to purchasers may be suspended or terminated for legal and/or policy reasons. If the DoS determines that it is necessary to suspend Security Assistance to a particular country, the Director, DSCA, issues instructions to the Security Assistance program Implementing Agencies. Details about this process can be found in Chapter 6. Questions relative to eligibility should be referred to DSCA (Operations Directorate). The following are some of the reasons why purchasers may not be eligible for support.

C4.2.4.1. Termination Due to Unnecessary Military Expenditures. Further sales, credits, and guaranties shall be terminated to any country that diverts economic aid, or its own resources to unnecessary military expenditures, to a degree that materially interferes with its development (AECA, section 35 (reference (c))). Existing sales, credits, and guaranties need not be terminated.

C4.2.4.2. Prohibition Against Discrimination, Intimidation, or Harassment. No sales are made and no credits or guaranties extended to, or for, any country whose laws, regulations, official policies, or governmental practices prevent any person from participating in the furnishing of defense articles or defense services on the basis of race, religion, national origin, or sex. Sales, credits or guaranties shall NOT be made or extended to countries engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. (AECA, sections 5 and 6 (reference (c)))

C4.2.4.3. Terrorism. Unless the President finds that the national security requires otherwise, the President shall terminate all assistance, sales, credits, and guaranties to any Government that aids or abets (by granting sanctuary from prosecution) any individual or group that has committed an act of international terrorism. (FAA, section 620A (reference (b)))

C4.2.4.4. Nationalization of U.S. Property. Assistance shall be suspended for countries that have nationalized, expropriated, or seized U.S. property, or have imposed discriminatory taxes. Assistance shall also be suspended if a country has initiated steps to repudiate or nullify existing agreements with U.S. citizens or entities without taking proper compensatory action. (FAA, section 620(e) (reference (b)))

C4.2.4.5. Compensation for Nationalized Property. FAA, section 620(g) (reference (b)) states that no monetary assistance shall be made available under this act to any Government or political subdivision or agency of such Government that compensates owners for expropriated or nationalized property.

C4.2.4.6. Narcotics. Economic and military assistance and sales to a country shall be suspended if the President determines the Government of that country has failed to take adequate steps to prevent either the sale of illegal drugs or other controlled substances to USG personnel or their dependents or the smuggling of such narcotics into the United States. (FAA, section 490 (reference (b)))

C4.2.4.7. Violation of Agreements. Any Government using equipment and/or services in substantial violation of an agreement between the United States and that Government shall be ineligible for future U.S. assistance until the President determines that such violations have ceased and is assured they shall not recur. (FAA, section 505(d) and AECA, section 3(c) (references (b) and (c)))

C4.3. WHAT MAY BE PURCHASED USING THE FMS PROGRAM

The FMS program transfers defense articles and services to eligible foreign purchasers. AECA, section 47 (reference (c)) defines the terms “defense article” and “defense service.” The U.S. Munitions List designates specific items that fall into these categories and includes an asterisk (*) by Significant Military Equipment (SME). The U.S. Munitions List (22 CFR part 121 of (reference (n))) can be found at the website <http://www.pmdtc.org/reference.htm#ITAR>. Any item of SME that has a nonrecurring research and development cost of more than \$50 million or a total production cost of more than \$200 million is considered Major Defense Equipment (MDE). See Appendix 1 for the Nonrecurring Cost Recoupment Charges for MDE.

C4.3.1. Source of Supply. Defense articles or services may be sold from DoD stocks, or the Department of Defense may enter into contracts to procure defense articles or services on behalf of eligible foreign countries or international organizations (AECA, sections 21 and 22 (reference (c))). DoD procurements for FMS use standard Federal Acquisition Regulation (FAR) (reference (ak)) contract clauses and contract administration practices except where deviations for FMS are authorized in the Defense Federal Acquisition Regulation Supplement (DFARS) (reference (al)).

C4.3.2. Materiel Standards. It is DoD policy that defense articles sold under FMS programs should reflect favorably upon the United States. Defense articles offered and sold under FMS are new or unused or, as a result of refurbishment, possess original appearance insofar as possible and, as a minimum, have serviceability standards prescribed for issue to U.S. Forces. If the purchaser desires exclusively new equipment, this requirement is stated in the LOA. If the purchaser wishes to purchase “as is” (no assurance of serviceability), this is also stated in the LOA. In addition to full disclosure of item condition, the purchaser is informed of unusual safety or environmental risks known at the time of sale. This information is included in the LOA with reference to separate publications or correspondence as appropriate.

C4.3.3. Logistics Support. The Department of Defense considers the support of U.S. origin defense articles critical to the success of the Security Assistance program. Systems in use with U.S. Forces are supported through the DoD procurement system. Support items that are stocked, stored, and issued due to common application with end items in use, should be provided even though the end items may have been acquired commercially or system support buyout is complete. (See Chapter 6.)

C4.3.3.1. When a system is to be phased out of the DoD inventory, countries that have acquired the system under FMS are given the opportunity to determine item requirements and to place final orders designed to maintain system capability through its service life. These orders are consolidated to ensure economic buys. (See Chapter 6.)

C4.3.3.2. The Department of Defense shall take reasonable steps to support systems that are not used by U.S. Forces including items that were never adopted by U.S. Forces. Support is provided for these items when mutually satisfactory arrangements are made with the country involved and supply sources are available. Effort is made to support non-standard items, whether acquired commercially or through FMS, when this effort serves U.S. interests.

C4.3.4. Communications Security (COMSEC) Equipment. Discussions relating to secure transmissions of U.S. classified data by foreign Governments involve the release and delivery of

U.S. COMSEC. These discussions are initiated with prior approval from the National Security Agency (NSA), the National Manager for COMSEC. In general, COMSEC discussions can take place once a Released in Principle (RIP) by the Committee for National Security Systems (CNSS), chaired by the Assistant Secretary of Defense for Networks and Information Integration (ASD NII) is approved. This interagency release process is documented in Chairman Joint Chiefs of Staff Instruction (CJCSI) 6510.06. The Implementing Agency is responsible for assuring that National Disclosure Policy (NDP) requirements are satisfied and that program details are staffed with appropriate security activities before a response is provided to the purchaser. Refer to National COMSEC Instruction 6001 (reference (am)), Joint Chiefs of Staff Memo 131 (reference (an)), NSTISSP No. 8 (reference (ao)), and CJCSI 6510.06 (reference (ap)).

C4.3.5. Design and Construction Services. AECA, section 29 (reference (c)) authorizes the sale of design and construction services to eligible foreign countries and international organizations provided that full costs are paid to the United States.

C4.3.5.1. Design and construction services are offered under normal FMS procedures. When part of a larger program, the services are included in the total package LOA under the cognizance of the managing Implementing Agency. When required, the Implementing Agency and construction agent may conclude an internal agreement to show program management relationships.

C4.3.5.2. When these services are stand-alone, the construction agent is normally the Implementing Agency.

C4.3.6. Police Training or Related Programs. Although the FAA, section 660 (reference (b)) expressly forbids it (see paragraph C4.4.3.), the AECA does not prohibit police training or related programs. DSCA (Strategy Directorate) and DoS approval must be obtained before offering this type of defense article or service through FMS procedures.

C4.3.6.1. If foreign students are authorized to attend military police training, foreign Governments must certify that the students are not involved in any civilian law enforcement functions for at least 2 years after receiving the training. Law enforcement includes apprehension and control of political offenders and opponents of the Government in power (other than prisoners of war), as well as persons suspected of common crimes.

C4.3.6.2. Counterterrorism training may be requested through the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict (SO/LIC) under the Regional Defense Counterterrorism Fellowship Program. DSCA should be informed of any request for antiterrorism or counterterrorism training. Foreign officers nominated to receive such training are vetted using the same DoD and/or DoS procedures in place for all International Military Education and Training (IMET) and FMS training.

C4.3.6.3. Limited military intelligence training is available. The scope of this type training shall be limited to training that is directly related to combat or operational intelligence or intelligence management of combat or operational intelligence at the joint military staff level. In case of doubt about whether or not a particular course or type of training falls into one of these two categories, obtain a clarification from DSCA.

C4.3.7. White Phosphorous Munitions. Requests for white phosphorus munitions should be submitted in accordance with the procedures established for SME. Requests should indicate, by type of ammunition, the quantity, and intended use. Requests should be accompanied by the U.S. Mission's opinion as to whether the amount requested is reasonable in relation to the intended use, current on-hand inventories, and predictable usage rates of such items; and requests must also contain assurance from the host Government that white phosphorus munitions are used only for purposes such as signaling and smoke screening. The DSCA (Operations Directorate) shall coordinate the request. Upon approval, the DSCA (Operations Directorate) advises the DoD Component and provides the special conditions that must be included in the LOA.

C4.3.8. M-833 and Comparable Depleted Uranium Rounds. FAA, section 620G (reference (b)) allows the sale of M-833 depleted uranium ammunition and comparable anti-tank rounds containing a depleted uranium-penetrating component to NATO member countries, major non-NATO allies, Taiwan, and countries for which a Presidential national security interest determination has been completed. Such a determination has been completed for the M-833 round for Bahrain and Saudi Arabia and the M-829 round for Saudi Arabia and Kuwait.

C4.3.9. Ship Transfers. Vessels 20 years old or more and no more than 3,000 tons (light load displacement) or less may be transferred after 30 continuous days of the date that the U.S. Navy (USN) notifies Congress of its intent to make the transfer. Naval vessels that are less than 20 years old or more than 3,000 tons may be transferred only after enactment of legislation authorizing the transfer. 10 U.S.C. 7307 (reference (aq)) prescribes these criteria and Congressional oversight provisions. See Chapter 11 for information on Excess Defense Articles (EDA) Congressional notification requirements.

C4.3.10. Technical Data Packages (TDPs) for Defense Articles Manufactured by Watervliet Arsenal. TDPs from a Government-owned and operated defense plant manufacturing large caliber cannons (e.g., Watervliet Arsenal) to a foreign Government, or assistance to a foreign Government in producing defense items currently manufactured or developed in a Government-owned and operated defense plant manufacturing large caliber cannons, may be transferred if the statutory exceptions in 10 U.S.C. 4542 (reference (z)) are met. The Secretary of the Army must determine if these requirements can be met before committing to such transfers; notify the Congress of every transfer agreement; and submit a semiannual report to Congress on the operation of this law and all agreements entered into under it.

C4.3.11. Stinger/Man-Portable Air Defense System (MANPADS). All security assistance organizations and personnel to include Military Departments (MILDEPs) and Security Assistance Organizations (SAOs) must get specific approval from DSCA (Programs and Strategy Directorates) prior to any discussions on MANPADS with any potential purchaser. This includes discussion of sales for replacement batteries, parts, components, or expendables for MANPADS. This requirement stands even for countries previously sold MANPADS or approved for MANPADS sales. See Chapter 8 for more information on Stinger/MANPADS.

C4.3.12. Landmines. All security assistance organizations and personnel to include MILDEPs and SAOs must get specific approval from DSCA (Strategy Directorate) prior to any discussions on landmines with any potential purchaser.

C4.3.13. Foreign Liaison Officer Support. Countries may locate a representative in the United States to assist with their programs. LOAs may be written to cover administrative costs (e.g., office space, secretarial support) for these personnel. See paragraph C4.4.2. for the types of foreign representative services and/or expenses that may NOT be included on an LOA.

C4.3.14. Night Vision Devices (NVDs). NVDs are man-portable devices, which incorporate image intensification, infrared, thermal, or sensor-fused technologies. NVDs fall under Category XII(c) of the U.S. Munitions List (22 CFR part 121 of reference (n)) and are designated as sensitive, unclassified SME. The Deputy Under Secretary of Defense for Technology Security Policy and Counterproliferation (DUSD(TSP&CP)) is responsible for NVD export policy and requires the case-by-case review of all requests for the international transfer of such items through FMS or direct export licensing. Each review considers input from the MILDEPs, the acquisition community, and the Chairman of the Joint Chiefs of Staff. Image intensifier tubes ordered as spare parts or replacements for destroyed, lost, stolen, or missing devices also require a case-by-case review except when replacing defective or damaged tubes that are returned to the USG on a direct exchange or repair and return basis. The technical capabilities of replacement tubes will not exceed the export restrictions set forth in the original authorization. NVDs taken from DoD stock may not be sold or transferred without an accompanying data sheet verifying that the technical capabilities of the image intensifier tubes do not exceed export restrictions. See Chapter 5 for more information on processing requests for NVDs and Chapter 8 for End-Use Monitoring (EUM) responsibilities.

C4.3.15. Medical Countermeasures. Purchases of medical countermeasures such as drugs, vaccines, and other medical interventions against biological and chemical agents require the approval of the Office of the Secretary of Defense. It is essential that Letters of Request (LORs) for these items be submitted to DSCA as soon as the requirement is known to allow sufficient staffing time. See paragraph C5.1.4.3.4 for additional information on LOR submission.

C4.3.16. Geospatial Intelligence (GEOINT). GEOINT provides the capability to visually depict physical features and geographically referenced activities on the Earth. It consists of imagery, imagery intelligence, and geospatial information (topographic, aeronautical and hydrographic maps, and charts data). GEOINT is essential to the guidance systems in many weapons. National Geospatial-Intelligence Agency (NGA) GEOINT data are either shared with the international community through agreements and arrangements under the authority of the Director of the NGA and/or the Director of National Intelligence, or can be purchased from NGA. Implementing Agencies are responsible for coordinating the release of the GEOINT data with NGA in advance. See paragraph C5.1.4.3.5. for additional information.

C4.4. WHAT MAY NOT BE PURCHASED USING THE FMS PROGRAM

Certain items may not be transferred using FMS procedures. Questions concerning what may or may not be authorized for a particular country should be directed to the DSCA (Operations Directorate). The following categories of items MAY NOT be included in LOAs.

C4.4.1. Items Procured from Foreign Countries. The Department of Defense shall not enter into sales arrangements that entail commitments for DoD procurement in foreign countries unless DSCA (Strategy Directorate) and DSCA (Office of the General Counsel) have approved an exception.

C4.4.2. Administrative Expenses for Foreign Government Representatives. The USG does not serve as the disbursing agent for funds received under LOAs unless those funds are required for materiel or services provided by the Department of Defense, another Federal agency, or through a DoD procurement contract. LOAs shall not include transportation, lodging, per diem, or other administrative expenses of foreign Government representatives, even though such expenses may relate to the procured materiel and/or services. In exceptional situations, DSCA may specifically authorize an LOA to include the payment of travel and living allowances for International Students. See Chapter 10 for information on international training. Foreign purchasers may not use LOAs to lease commercial or General Services Administration (GSA) vehicles. Foreign purchasers are responsible for making and paying for these arrangements outside the FMS process.

C4.4.3. Police, Counterterrorism, and Military Intelligence Programs.

C4.4.3.1. The FAA prohibits using funds authorized under that Act to conduct any police training or related programs either in a foreign country or in the United States. All military assistance under the FAA, not just training, is subject to this prohibition with certain statutory exceptions as found in FAA, section 660 (reference (b)).

C4.4.3.2. Police training in the context of the FAA prohibition includes military police as well as civilian police if the military police perform on-going civilian law enforcement functions. Neither the name given to a unit nor the ministerial authority under which it operates is sufficient to determine whether a particular unit is a “police unit.” The determining factor is the nature of the functions performed by the unit. Assistance in foreign countries for any civilian law enforcement function (except maritime law enforcement or international narcotics control) is prohibited.

C4.4.3.3. The prohibitions discussed above do not apply to units with the sole function of internal security that involves combat operations against insurgents, or legitimate self-defense of national territory against foreign invasion, whether or not the unit is called police.

C4.4.3.4. If some personnel from a smaller unit within a larger unit that is eligible for assistance are detailed to on-going civilian law enforcement functions, then just the smaller unit is prohibited from receiving grant support under the FAA. However, no grant funds may be used in any program of internal intelligence or surveillance on behalf of any foreign Government either within the United States or abroad.

C4.4.3.5. The AECA does not prohibit police training or related programs or funding such training with Foreign Military Financing (FMF) funds. DSCA and DoS approval shall be obtained before offering this type of defense article or service through FMS procedures. See paragraph C4.3.6.

C4.4.4. Napalm. Napalm, including napalm thickener, dispensers, and fuses shall not be provided through FMS or commercial contracts.

C4.4.5. Riot Control Agents. Riot control agents shall not be provided via FMS, but certain types are available on a commercial basis. Such proposed commercial sales require that an export license be obtained from the DoS, Directorate of Defense Trade Controls.

C4.5. GENERAL FMS POLICIES

Detailed procedures for FMS programs including writing LOAs and managing cases are found in Chapters 5 and 6. The following broad policies apply and should be noted early in the FMS process.

C4.5.1. Sales Determinations. Once the eligibility criteria in section C4.2. have been met, the Secretary of State determines whether there shall be a sale to a country and the amount thereof, whether there shall be a lease to a country, and whether there shall be delivery or other performance under any sale or lease. (See Chapter 11 for information on leases.) Arms control consequences must be taken into consideration when evaluating any FMS sale (FAA, section 511 (reference (b))); AECA, section 38(a)(2) and 42(a)(c) (reference (c))). Decisions to issue licenses or approve sales under the AECA or to furnish military assistance under the FAA shall take into account the extent to which such exports, sales, or assistance contribute to an arms race, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements.

C4.5.2. International Weapons Competitions. Foreign nations often compete weapon system procurements. The foreign Government's defense or economic ministry solicits bids or proposals from defense industries in the international market. Depending on the nation's acquisition process, the solicitation may be a formal request for information, a tender or proposal, an invitation to bid, or a similar document that states the review criteria for proposal submissions. Given the size of the U.S. industrial base, the U.S. response may consist of more than one offering. In the international competition, the foreign nation evaluates proposals submitted by both the U.S. and non-U.S. competitors against the solicitation criteria.

C4.5.2.1. Foreign Solicitation. In an international competition, the foreign nation releases its solicitation in the international market. When submitted through appropriate channels (see Chapter 5, paragraph C5.1.3.) the solicitation is a Letter of Request (LOR) and initiates USG processes (e.g., NDP-1, technology transfer, and other reviews) to determine if it is in the U.S. best interest to participate in the competition. The U.S. response in an international competition may include FMS, Direct Commercial Sale (DCS), international cooperative agreement, or a combination of these programs. Most foreign solicitations are released to international defense industries rather than to Governments; however, the FMS process should not be excluded from the response solely on the basis of how the foreign solicitation was released or conditioned.

C4.5.2.2. Lead Agency for Advocacy. DSCA is the DoD focal point for policy regarding U.S. participation in international competitions. The Department of Commerce (DoC) is the lead USG agency for policy regarding advocacy of U.S. offerings to foreign Governments. The MILDEPs and defense contractor team develop the proposal. Table C4.T3. identifies the lead agency and advocacy for the USG responses.

C4.5.2.3. Responsibilities of the DoD Lead Managing the USG Response. The DoD lead facilitates the USG's deliberative processes such that the policy decisions that affect the proposals are developed as early as possible. The DoD lead obtains the views of the key USG stakeholders: DoS, DoC, Office of the Under Secretary of Defense (Policy), Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics), Defense Technology Security Administration, DSCA, and the MILDEPs. The DoD lead ensures MILDEP and/or contractor teams submit proposals that are consistent with internal U.S. decisions, are as responsive as

possible to the requirements of the foreign solicitation, and meet the solicitation's schedule. In cases of multiple U.S. offerings, the DoD lead must facilitate all U.S. proposals through the USG reviews on a level playing field basis. The DoD lead must act impartially such that there is no perception that one offering is preferred over another and there is no biased interpretation of policy. The DoD lead must bring together all competing MILDEP and/or contractor teams to highlight issues, perform joint problem solving, establish plans and agreements, ensure that the U.S. entrants are being held to the same standards, address cross-cutting issues, and coordinate responses with the foreign purchaser.

Table C4.T3. Lead Agency and/or Advocacy in International Competitions

Number of U.S. Responses	Number of Services Involved	Lead DoD Agency	USG Advocacy
One	One	MILDEP responsible for the weapon system or technology offered	The one U.S. system offered is articulated as the formal U.S. position.
More than one	One	MILDEP responsible for the weapon systems or technologies offered	USG personnel may not favor the merits of one U.S. proposal over another. U.S. advocacy must be generic - the U.S. proposals are combat proven, interoperable with many nations, technologically superior, worldwide supportable, etc. This neutral stance extends to USG presence in meetings with foreign officials. If USG personnel are present for one U.S. contractor presentation, every effort must be made to be present for all briefings on other U.S. offerings. Only when one U.S. MILDEP and/or contractor team remains in the competition can the United States advocate one U.S. offering. This occurs if all other MILDEP and/or contractor teams self-eliminate or the foreign nation formally states these proposals are no longer under consideration.
	More than one	DSCA	

C4.5.3. Total Package Approach (TPA). A TPA ensures that FMS purchasers can obtain support articles and services required to introduce and sustain equipment. The complete sustainability package must be offered to the purchaser when preparing Price and Availability (P&A) data or LOAs. In addition to the system itself, other items to consider in a total package include: training, technical assistance, initial support, ammunition, follow-on support, etc.

C4.5.4. Marketing. In accordance with FAA, section 515 (reference (b)), "The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch." Chapter 2 provides general instructions to SAOs, and the DoS has furnished similar guidance to country teams as a whole. Additional instructions may be provided for specific programs. For questions, contact DSCA (Strategy Directorate).

C4.5.5. False Impressions. Problems can occur when foreign purchasers expect to obtain certain articles and services from the USG but conditions prevent these sales. USG personnel must consider releasability, disclosure, and all required coordination before indicating to a potential purchaser that a sale from the USG is possible. See Chapter 3, paragraph C3.3.4.

C4.5.6. Re-Transfer Restrictions. All purchasers or grant recipients must agree they shall not transfer title or possession of any defense article or related training or other defense services to any other country without prior U.S. consent, authority for which has been delegated to the DoS (AECA, section 3(a)(2) (reference (c)) and FAA, section 505(a) (reference (b))). Special care must be taken to ensure that minor repair parts, fuel, or other defense articles that lose identity when co-mingled, are controlled by the recipient Government using procedures that assure there are no non-approved transfers. See Chapter 8 for information on re-transfers.

C4.5.7. Proper Use of Materiel and End Use Monitoring (EUM). Sales and assistance may be made to countries only for purposes of internal security, legitimate self-defense, civic action, or regional or collective arrangements consistent with the United Nations (UN) Charter, or requested by the UN (AECA, section 4 (reference (c))); and FAA, section 502 (reference (b))). Proper use of U.S.-origin items is a joint responsibility of the recipient and U.S. personnel. U.S. representatives have primary responsibility until items are physically transferred to the recipient. The recipient then assumes this responsibility, based on agreements under which transfers are made, including transfer to a third party or other disposal or change in end-use. See Chapter 8 for information on EUM.

C4.5.8. Neutrality. The Department of Defense prefers that countries friendly to the United States fill defense requirements with U.S. origin items. Unless an item has been designated as “FMS only,” the Department of Defense is generally neutral as to whether a country purchases U.S.-origin defense articles or services commercially or through FMS channels. In some instances, such as for certain Government Furnished Equipment (GFE) and Government Furnished Materiel (GFM), AECA, section 38(a)(3) (reference (c)) controls apply and items are sold only via FMS.

C4.5.9. FMS-Only Determinations. The AECA (reference (c)) gives the President discretion to designate which military end-items must be sold through FMS channels exclusively. This discretion is delegated to the Secretary of Defense and executed by DSCA in close coordination with the Defense Technology Security Administration (DTSA) and the MILDEP or DoD Component responsible for the end-item. The DoS approves or disapproves all sales and is responsible for the continuous supervision and general direction of all sales.

C4.5.9.1. In general, the Department of Defense is neutral as to whether a sale is accomplished via Direct Commercial Sale (DCS) or FMS. However, there are times when the Department of Defense requires that a transaction be accomplished via FMS. Four general criteria are used to determine if a sale is required to proceed through the FMS process. The criteria are: Legislative/Presidential restrictions; DoD/MILDEP policy, directive or regulatory requirement, e.g., the National Disclosure Policy; government-to-government agreement requirements; and interoperability/safety requirements for U.S. Forces.

C4.5.9.2. These criteria, particularly DoD/MILDEP policy, can be further understood by considering four possible elements:

C4.5.9.2.1. U.S. Political/Military Relationship with the End-User. The geopolitical situation and security relationships are taken into account when considering the appropriateness of FMS-Only. The inherent strengths of FMS or DCS licensing methods are also considered in selecting the method that best suits the interests of U.S. and the foreign purchaser within the context of existing world security circumstances.

C4.5.9.2.2. Sale of a New or Complex System or Service. FMS-Only may be recommended:

C4.5.9.2.2.1. To maximize the purchaser's ability to assimilate the technologies and manage its acquisition/logistics.

C4.5.9.2.2.2. For enhanced interoperability and cooperation between U.S. and purchaser's military forces.

C4.5.9.2.2.3. For end-items or services that require complex systems integration with other combat systems.

C4.5.9.2.2.4. For end-items or services that require access to sensitive U.S. government databases, libraries, or software-source code.

C4.5.9.2.2.5. For end-items or services that require EUM or on-site accountability.

C4.5.9.2.3. Diversion and Exploitation of Defense Systems Technologies. Security of sensitive technologies is an area of particular concern that requires greater scrutiny in the transfer process. Defense systems and munitions that are not particularly complex or sensitive, but still require enhanced control to prevent proliferation to rogue states or terrorist organizations, represent another area where FMS may be more appropriate than DCS.

C4.5.9.2.4. Feasibility of Separating Weapon System Components into FMS/DCS Elements. At times, purchasers may desire all or a portion of a sale to be DCS. It is possible to separate the FMS-Only aspects of a purchase from the portion that can be DCS.

C4.5.9.3. Each MILDEP or DoD Component develops the FMS-Only designation considering the criteria in subparagraphs C4.5.9.1. and C4.5.9.2. The MILDEP or DoD Component forwards FMS-Only systems designations with rationale to DSCA (Programs Directorate/Weapons Division) and DTSA. DTSA enforces the FMS-Only designations within the Department of Defense through the export licensing process. Questions regarding FMS-Only designations should be directed to the MILDEP or DoD Component. Requests for further assistance with FMS-Only designations may be directed to DSCA (Programs Directorate/Weapons Division) for reconciliation or referral to the appropriate DoD element for resolution in accordance with NDP-1, DoD Directive 2040.2 (reference (u)), or DoD Directive 5120.49 (reference (ar)).

C4.5.10. Direct Commercial Sales (DCS) Preference. Companies may prefer that a sale be made commercially vice using FMS procedures. When a company receives a request for proposal from a country and prefers commercial means, the company may request that DSCA (Strategy Directorate) issue a DCS preference for that particular sale. The company's request must include a copy of the purchaser's solicitation for a price quotation. Approved DCS preferences should be held within SAOs and at the item manager level to allow proper screening of LORs. The process outlined in this section is a best efforts commitment by the Department of Defense. Failure on the part of the DoD Component to comply with these procedures shall not invalidate any resultant FMS transaction. Before approving DCS preference for a specific transaction, the following are considered.

C4.5.10.1. Article or Service Exclusions. Items provided on blanket order lines and those required in conjunction with a system sale do not normally qualify for DCS preference.

C4.5.10.2. Specific Sale Exclusions. For certain countries and for sales financed with Military Assistance Program (MAP) or FMF funds, articles or services that may otherwise qualify for DCS preference must be sold through FMS procedures. The Director, DSCA, may also mandate FMS for a specific sale.

C4.5.10.3. P&A or LOA Requests. DCS preferences are valid for 1 year. If during this time period, the applicable Implementing Agency receives a request from the purchaser for the same item they shall notify the purchaser of the DCS preference, using the following text:

[Company] has advised us that it is actively negotiating with you a program under which [article or service] is to be provided commercially.

Although we have no preference as to whether this item is procured through FMS or on a commercial basis, we do not normally provide price and availability information that could conflict with information formally requested from commercial firms. If a commercial transaction is undertaken, the U.S. Government shall not be a party to the contract; therefore, all aspects of contract performance must be between your Government and the company.

Before we can provide FMS data, you must confirm that all commercial efforts have ceased and advise us of the reason for this decision.

The Implementing Agency must determine if commercial activity has ceased, determine if guidance in paragraph C4.5.11. applies, or seek further guidance from DSCA (Strategy Directorate).

C4.5.11. Concurrent FMS and Commercial Negotiations. Implementing Agencies shall not engage in FMS-commercial comparison studies unless the Director, DSCA, grants an exception for a specific circumstance. Purchasers should submit a request for exception to DSCA (Strategy Directorate). Purchasers should avoid concurrent FMS and commercial requests. However, the purchaser's national policy or specific circumstances may require that both FMS and commercial data be obtained.

C4.5.11.1. FMS Data Obtained First. If the purchaser obtains FMS data and later determines they should request a commercial price quote, the purchaser should cancel the LOR prior to requesting commercial data. If an LOA has been offered and the purchaser then solicits formal bids from private industry for the same item, the Implementing Agency should query the country as to its intentions and indicate that the LOA may be withdrawn.

C4.5.11.2. Commercial Data Obtained First. If the purchaser requests FMS data after soliciting bids from contractors, the purchaser must supply information to the Implementing Agency showing that commercial acquisition efforts have ceased before any FMS data is provided.

C4.5.12. Travel in Support of Security Assistance Programs. U.S. military and DoD civilian employees who travel to and from a foreign country on Security Assistance business, whether the travel is financed by FMS administrative or case funds, must use the same commercial air

carrier, class of service, and routing that the transportation officer requires of other DoD travelers. Waivers from the normal travel procedures shall be granted to Security Assistance travelers on the same basis and in the same manner as provided for DoD personnel traveling on regular defense business. (See Joint Federal Travel Regulations (JFTR), Volume 1, Military Members; and Joint Travel Regulations (JTR), Volume 2, DoD Civilians (references (as) and (at)).)

C4.5.13. Use of Federal Acquisition Regulation (FAR) and DoD FAR Supplement (DFARS).

When procuring for a foreign Government, the Department of Defense shall apply the same contract clauses and contract administration as it would use in procuring for itself, except where deviations are authorized in the DFARS (reference (al)). If a sole source procurement requested by a foreign Government appears to be motivated by objectives in conflict with this requirement or with any U.S. legislation, the MILDEP's proposed sole source denial memorandum must be forwarded to DSCA (Operations and Strategy Directorates) for coordination.

C4.5.14. Diversion of Materiel. DoD policy requires a determination that the sale of a defense item shall not degrade U.S. defense efforts by taking needed equipment from U.S. stocks (withdrawals) or disrupting deliveries of critical items from production for U.S. Forces (diversions), unless the sale of the item is in the overall U.S. national interest. See Chapter 6, paragraph C6.4.5. for information regarding diversions.

C4.5.15. Insurance. Purchasers shall self-insure FMS shipments or obtain commercial insurance without any right of claim against the United States. When requested by the purchaser, the Implementing Agency may obtain insurance and include it as a separate LOA line item. For FMS cases already implemented, an Amendment can add authorized insurance coverage. Whenever an Implementing Agency provides these services to a purchasing country or organization, it should obtain insurance from a U.S. insurance firm if possible. Providing insurance is an exceptional arrangement and the purchaser should be encouraged to make arrangements for insurance on subsequent cases.

C4.5.16. Classification of Security Assistance Information. All Security Assistance information shall be unclassified unless the DoS, the Assistant Secretary of Defense for International Security Affairs (ASD(ISA)), the Assistant Secretary of Defense for International Security Policy (ASD(ISP)), or the Director, DSCA, directs classification in a particular situation, or unless the national security classification criteria of Executive Order (E.O.) 12958 (reference (aw)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations warrant classification for national defense purposes.

C4.5.16.1. Purchaser Requests to Classify Security Assistance Information. Under exceptional circumstances and when approved by any of the organizational elements above in paragraph C4.5.16. and DSCA, Security Assistance information may be classified at the request of the purchaser. See Chapter 5 for information the purchaser must provide when making such a request. FMS purchasers should be discouraged from requesting classification of FMS cases and related information. 10 U.S.C. 130c (reference (ag)) protects purchaser's sensitive FMS information from public dissemination. (See Section 1073 of Public Law 106-398 (2001) (reference (av)).) Congress has set a high standard for classification of FMS cases and requires a description of the damage to national security of the United States that could be expected to result from public disclosure of the information as justification.

C4.5.16.2. Factors Determining Classification. The primary factors considered by the DoS, ASD(ISA), ASD(ISP), and the Director, DSCA, in requiring classification of FMS information are: the extent to which disclosure of the information would reveal the purchaser's order of battle, taking into consideration the nature and quantity of defense articles sold and the degree to which the purchaser relies on the United States as a source of military supply; the extent to which disclosure of the information could be expected to stimulate demands by third countries upon the United States or upon other supplying nations for defense articles, thus encouraging global or regional instability or fostering an arms race; and to prevent unauthorized disclosure of the fact that a specific defense article (e.g., F-16 aircraft) is or may be sold to a particular foreign Government.

C4.5.16.3. Levels of Classification. All Security Assistance information that is classified is CONFIDENTIAL unless the DoS, ASD(ISA), ASD(ISP), or the Director, DSCA, directs a higher level of classification in a particular instance, or unless the national security classification criteria of E.O. 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations warrant a higher level of classification for national defense purposes.

C4.5.16.4. Declassification. All classified Security Assistance information shall be declassified when the originating agency so determines unless a longer period of classification is either directed in a particular situation by the DoS, ASD/ISA, ASD/ISP, or the Director, DSCA, or is warranted by the national security classification criteria of E.O. 12958 (reference (au)), DoD 5200.1-R (reference (x)), and corresponding MILDEP regulations for national defense purposes.

C4.5.17. Department of Defense (DoD) Support to Direct Commercial Sales (DCS). U.S. industry may request defense articles and services from the DoD to support a DCS to a foreign country or international organization. Defense articles and/or services provided to U.S. industry must be accomplished pursuant to applicable statutory authority including Section 30 of the AECA (reference (c)). Section 30 of the AECA (reference (c)) authorizes the sale of defense articles or defense services to U.S. companies at not less than their estimated replacement cost (or actual cost in the case of services) for incorporation into end items to be sold by such company on a direct commercial basis to a friendly foreign country or international organization pursuant to Section 38, AECA (reference (c)). SAMM Chapter 11, section C11.8. further clarifies authorized DoD support (articles or services) under this section. In addition, it is important that defense industry representatives identify early in the DCS planning process if support from the DoD will be required. If DoD support is deemed necessary, then meetings with DoD representatives should be arranged to discuss the level of support required and the method for funding the associated costs.

C4.6. GENERAL FMS FINANCIAL POLICIES

See Chapter 9 for detailed financial policy information. Some broad financial policies that should be noted early in the FMS process include the following.

C4.6.10. Recovery of Cost. The FMS program must be managed at no cost to the USG (with certain exceptions specifically identified in the AECA). The LOA mandates that the purchaser pay the full program value regardless of terms of sale specified for the individual case or the estimated values provided. Modifications and Amendments are used to update case values as necessary when changes to the program occur. See Chapter 6, section C6.7. for more information on when these documents should be used.

C4.6.11. Payment in U.S. Dollars. Sales may be made under FMS only if the eligible purchaser agrees to pay in U.S. dollars (AECA, sections 21 and 22 (reference (c))). AECA, section 21(h) (reference (c)) authorizes reciprocal arrangements under limited circumstances.

C4.6.12. Use of FMS Credit Funds for Procurement Outside the United States. FMS credit funds may be used for procurement outside the United States only if the President determines that such procurement does not result in adverse effects upon the U.S. economy or the industrial mobilization base (AECA, section 42(c) (reference (c))). Prior consultations with the DSCA (Operations Directorate) and the Departments of State and Treasury are required. See Chapter 9 for more information on credit funds.

C4.6.13. Foreign Military Financing (FMF) and/or Credits

C4.6.13.1. Use of FMF and/or Credit for Essential Items. FMF and/or credit and guaranties under the AECA shall be used only to assist countries in acquiring essential items that cannot reasonably be financed by other means and normally shall be used only to finance investment requirements.

C4.6.13.2. Use of Concessionary FMF and/or Credit Terms. Concessionary FMF and/or credit terms (i.e., interest rates less than the cost of money to the USG) shall be granted only when determined by the President (AECA, section 23 (reference (c))).

C4.6.13.3. Repayment of FMF and/or Credit. FMS credits must be repaid in U.S. dollars. Repayment terms are not longer than 12 years after the loan agreement has been signed on behalf of the USG unless otherwise provided for by U.S. law (AECA, section 23 (reference (c))). Individual credit installments must be repaid in a timely manner to avoid Brooke Sanctions (a provision within the annual Foreign Operations Appropriations Act).

C4.6.13.4. Use of FMF and/or Credit Payments. Cash received from FMS and from repayments of FMF and/or credits shall not be used for financing new FMF and/or credits or guaranties (AECA, section 37 (reference (c))).

C4.6.13.5. U.S. Guaranties. The USG may guarantee financing by any individual, corporation, partnership, or other judicial entity doing business in the United States (excluding USG agencies other than the Federal Financing Bank) if such financing is in connection with FMS or direct commercial sales of defense items. Fees shall be charged for such guaranties (AECA, section 24 (reference (c))). As of publication of this document no active guaranties exist.